THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.23799 of 2004

ORDER:

Heard the counsel.

The writ petition is filed to issue a Writ of Mandamus directing the respondents 1 and 2 to take action against such illegal construction being raised by 3rd respondent by encroaching the road to the extent of 10' opposite to the house of the 3rd respondent bearing No.10-1-1190, situated at A.C.Guards, Hyderabad.

It is stated that the writ petitioner is the owner, possessor and enjoyer of the house bearing No.10-1-873, situated at A.C.Guards, Hyderabad. At the rear side of the house of the petitioner there is a road admeasuring 30' which finally leads to main road. It is also stated that 3rd respondent being the owner of the house bearing No.10-1-1190, A.C.Guards, Hyderabad, had encroached upon the said road to the extent of 10' and inturn constructed a room in spite of vehement objection. When the said 3rd respondent was making such construction, the writ petitioner submitted a written complaint to the 2nd respondent marking a copy to the 1st respondent. The said written complaint was signed by all the people in the locality. It is also stated that in spite of giving such written complaint dated 15.02.2002, the respondents

1 and 2 failed to take any action against the said illegal acts being committed by the 3rd respondent wherein the 3rd respondent had encroached the road to the extent of 10' and raised a room. Because of such illegal construction made by the 3rd respondent by encroaching upon the road, the petitioner was put to lot of hardship for her ingress and aggress so also the people of the locality. It is also

stated that several representations have been made in this regard but respondents 1 and 2 failed to take action an the writ petitioner filed W.P.No.5671 of 2002 questioning the inaction on the part of the respondents 1 and 2 and the same was disposed of on 28.03.2002 directing the respondents 1 and 2 to take action within two weeks. Despite those orders, no action had been taken. In such circumstances, it is stated that the relief specified supra is being prayed for by the writ petitioner.

The Assistant City Planner filed counter affidavit on behalf of both the respondents 1 and 2 denying the allegations made in the affidavit filed in support of the writ petition. It is stated that it is true that the writ petitioner filed W.P.No.5671 of 2002, which was disposed of by this Court on 28.03.2002 directing the 2nd respondent to take further action within 2 weeks. It is also stated that after the disposal of the writ petition, the 2nd respondent Assistant City Planner had visited the site and necessary action was already taken by removing the compound wall, which was constructed illegally by the 3rd respondent on 17.6.2002. It is also stated that after removal of the encroachment on 26.7.2006 exercising the powers under Section 405 of the Hyderabad Municipal Corporation Act, the 3rd respondent approached this Court by filing W.P.No.15968 of 2006 and the writ petition was disposed of by the order dated 30.08.2006 directing the 2nd respondent to follow due process of law. It is also stated that taking advantage of the said order, the 3rd respondent again constructed the said removed portions by encroaching upon the road. It is also stated that the 2nd respondent also addressed a letter to Mandal Revenue Officer, Asifnagar on 18.7.2006 requesting to cooperate in conducting a survey and in fact a survey was conducted and the Mandal Revenue Officer, Asifnagar,

informed the 2nd respondent stating that the said site in question is described as GVM land as per the records.

In the light of the specific stand taken in the counter affidavit inasmuch as it is stated that action had been initiated in this regard, this Court is of the considered opinion that the writ petition can be disposed of directing the respondents 1 and 2 to take appropriate action in this regard in the event of the 3rd respondent making such unauthorized or illegal constructions.

With the above observation, the writ petition is disposed of. No orders as to costs.

06.11.2006

cvrk